

Abstract

The diploma thesis attempts to provide an overview of legal regulation in field of trade name and its protection. It focuses especially on relatively complex issues connected with legal nature of the trade name as a subject-matter of legal relationship and nature of entrepreneur's right to it. Only little attention is paid to these problems in scientific literature and the conclusions are not unanimous. That is the reason why I chose this topic for my research.

The present text is divided into five parts, namely introduction, three chapters and conclusion. The introduction highlights goals of the thesis, its structure and research methods that will be used in order to reach the defined ends.

Chapter One deals with history of the trade name since the second half of the 19th century until the recent regulation came into effect in 2001. The main purpose of this part is to familiarize the reader with inspiring pre-World War II era regulation.

Chapter Two describes contemporary legal regulation of trade name contained in the Czech commercial code. The chapter consists of six subchapters, each of which examines different issues related to trade name. The first subchapter attempts to define essential traits of the trade name as a legal concept and to find borders between the trade name and other similar concepts, such as trade mark. Subchapter two deals with nature of entrepreneur's right to trade name. Subchapter three explains rules which must be adhered to when trade name is being created. These rules govern both, structure and content of trade name. Subchapter four focuses on use of trade name. It examines whether the trade name may be subject to license agreement. Subchapter five describes assignment of the trade name. The last subchapter shifts the focus on legal protection of the trade name. It describes two main systems of legal protection. The first system is called absolute system of protection because it provides remedy irrespectively of legal status of infringer and its relationship to trade name's owner. The second system of protection is unfair competition law. This system is labeled relative since it grants remedy solely in cases where there is relationship of competition between the infringer and harmed party.

Chapter Three analyzes rules of trade name law contained in drafted civil code using descriptive-comparative method. Its structure is basically analogous with the one of the preceding chapter. The chapter is divided into five subchapters, each of which explains prospective changes to particular areas of trade name law.

Conclusion points out weak points of both, present and drafted regulations. I suggest certain changes to be done in new civil code in order to make its rules governing trade name clearer and effectively protecting the public from unlawful usage of trade name.